IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

INCOME TAX REFERENCE No 200 of 1995

For Approval and Signature:

Hon'ble MR.JUSTICE M.S.SHAH Sd/-
and
Hon'ble MR.JUSTICE D.A.MEHTA Sd/-

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

COMMISSIONER OF INCOME TAX

Versus

S P JAIN & COMPANY

Appearance:

MR MH JOSHI FOR MR MANISH R BHATT for Applicant.

SERVED BY RPAD - (N) for Respondent.

CORAM : MR.JUSTICE M.S.SHAH
and
MR.JUSTICE D.A.MEHTA

Date of decision: 07/11/2001

ORAL JUDGEMENT

(Per : MR.JUSTICE D.A.MEHTA)

1 The Income Tax Appellate Tribunal has referred the following question for the opinion of this Court at the instance of the revenue, for assessment year 1984-85 :

> "Whether, the Appellate Tribunal is right in law and on facts in confirming the order made by the Commissioner of Income-tax (Appeal) deleting the addition of unpaid sales tax liability of Rs.97,536/- invoking the provisions of section 43B?"

2 We have heard Mr.M.H.Joshi, learned Counsel, appearing on behalf of the revenue. Though served none appears for the respondent-assessee.

3 Mr.Joshi fairly points out that the question stands answered by a decision of the Apex Court in the case of Allied Motors (P.) Ltd. vs. C.I.T., 224 I.T.R.677. Following the said decision, we answer the said question in the affirmative i.e. in favour of the assessee and against the revenue.

5 The reference stands disposed of accordingly with no order as to costs.

Sd/- Sd/-
(M.S.Shah,J) (D.A.Mehta,J)

m.m.bhatt